

**ANALYSIS OF CRIMINAL ACTIONS THROUGH TERRORISM FUNDING
CHARITY BOX MONEY REVIEWED BY LAW
NUMBER 9 OF 2013 CONCERNING PREVENTION AND ERADICATION
OF CRIMINAL ACTS
TERRORISM FUNDING**

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ABSTRACT

Criminal acts of terrorism are acts that involve elements of violence or cause dangerous effects on human life that violate the criminal law. The criminal act of financing terrorism in Indonesia is an integral part of the criminal act of terrorism. This is because the criminal act of financing terrorism is regulated simultaneously with the criminal act of terrorism in Government Regulation in Lieu of Law Number 1 of 2002 concerning the Eradication of Criminal Acts of Terrorism as amended into Law based on Law No. 15 of 2003. Normative Juridical Research Method, with a statutory approach, which is descriptive analytical in nature. Data collection techniques and tools were carried out using literature studies and field studies. Data sources are primary data and secondary data with qualitative data analysis. The mode of financing terrorism through foundations is dominant and has the potential for high risk because the source of the funds generally comes from legal activities, for example donations/contributions from the community from work. other factors that motivate someone to join a terrorist network. This motivation is caused by several factors. First, domestic factors, namely domestic conditions such as poverty, injustice or feeling disappointed with the government. Second, international factors, namely the influence of the foreign environment which provides the impetus for the growth of religious sentiments such as global injustice, arrogant foreign policy, and modern imperialism of superpower countries. Third, cultural factors are closely related to shallow religious understanding and narrow and lexical (literal) interpretation of holy books. three factors that encourage the emergence of a soft approach. Legal responsibility is interpreted as an obligation to carry out certain things or conduct behavior based on certain methods that do not violate previously existing rules. Legal responsibility can also be defined as the consequences of a criminal event that the legal subject commits, in this way criminal responsibility for the perpetrator of the funding for terrorist activities is to carry out the role of the consequences of the criminal act that the legal subject commits, which means that the consequences of his actions are in line with the rules. existing and applicable laws in the State of Indonesia.

Keywords: Crime, Terrorism Funding, Charity Box.

A. Introduction

Indonesia is one of the countries where the majority of the population is Muslim and the Islamic country with the largest population in the world, but it has been labeled as a hotbed of terrorism. In the Indonesian context, this stigma also tarnishes the image of Indonesian Muslims. The arrest of many terrorist activities in Indonesia, even though they are Malaysian nationals, first of all, the name of the Indonesian nation and people is also tarnished in the international arena.¹

Terrorism is part of a crime that cannot be classified as an ordinary crime. Academically, terrorism is categorized as an extraordinary crime and is also categorized as a crime against humanity. At the juridical level, terrorism is a criminal act against state security, considering this category, its eradication certainly cannot use ordinary methods such as dealing with ordinary criminal acts such as theft, murder or assault. The crime of terrorism is a form of action that threatens the security and sovereignty of the Unitary State of the Republic of Indonesia (NKRI).²

In carrying out their actions, the perpetrators of terrorism certainly need various supports, including financial support. Funds are needed to prepare operations, such as to promote ideology, finance terrorist members and their families, fund travel and lodging, train new members, forge documents, and purchase weapons. Therefore, funding is an important factor in acts of terrorism so that efforts to overcome terrorism must be followed by preventing and eradicating terrorist financing. In essence, terrorism financing is the provision of financial support for terrorism by those who facilitate, plan or carry out terrorism.

Funding is the immigrant community from which the organization originates. Several methods of collecting funds include withdrawing funds from each member,

¹ Zuly Qodir. (2012). "Peran Negara Dan Agama Dalam Memerangi Terorisme". *Orientasi Baru*, Vol. 21, No.1, Halaman 93-94

² Randy Pradityo. (2015). "Kebijakan Pidana Dalam Upaya Penanggulangan Tindak Pidana Pendanaan Terorisme". *Jurnal Rechtsvinding*, Vol.5 No.1, halaman 18.

selling goods, cultural attractions, social activities, "door to door" outreach among the community and donations from members who are classified as well off in the community. Funding for terrorist groups may also involve income derived from legitimate sources or from a combination of legitimate and illegitimate sources. The social activities carried out by the perpetrators of terrorism include various things, one of which is by establishing social charity foundations so that they can easily collect funds in the name of the foundation they have created. The mode they often use is raising funds through charity boxes distributed by the perpetrators in various public places such as minimarkets, mosques, restaurants and other areas.

Efforts to eradicate criminal acts of terrorism using conventional methods (follow the suspect), namely by punishing the perpetrators of terror, are apparently not optimal enough to prevent and eradicate criminal acts of terrorism. Another effort that needs to be made to prevent and eradicate criminal acts of terrorism is to implement a follow the money approach involving the Financial Transaction Reports and Analysis Center (PPATK). This then became the background for the formation of Law Number 9 of 2013 concerning Prevention and Eradication of Terrorism Financing Crimes (hereinafter referred to as Law Number 9 of 2013). Law Number 9 of 2013) is a regulation stipulated by the Indonesian Government in responding to acts of terrorism which focuses on preventing and eradicating criminal acts of terrorist financing.

Based on this, the tightening of social action regulations by raising through charity boxes needs to be reviewed again, especially since Law No. 9 of 2013 concerning Prevention of criminal acts of terrorism only regulates large actors such as funding from corporations, it does not clearly regulate fundraising activities using charity boxes which can be carried out. individuals and foundations that are difficult to audit by PPATK.

B. Research Methods

A research cannot be said to be research if it does not have a research method.³ Research methods are one of the factors of a problem that will be discussed.⁴ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

C. Analysis And Discussion

1. Modus Oporendi for Criminal Acts of Terrorism Funding Through Charity Boxes

The increasingly rapid development of globalization and accompanied by the increasing development of goods, funds and cross-border flows has opened up important opportunities for the political, economic and social growth of a country. This situation can certainly have many impacts, both positive and negative. The presence of a positive impact will lead to progress in various fields, while the emergence of a negative impact will give rise to many criminal acts both within and across national or international borders. One of these criminal acts is acts of terrorism whose funding is taken from the proceeds of money laundering. Along with the development of science and technology, the practice of money laundering is always related to terrorism.

The ease of access and funding traffic between countries is due to advances in science and technology which are integrated into the financial system at banks so that these activities can be carried out quickly. There is a close relationship between terrorism and money laundering, where funding for terrorism is obtained from the proceeds of money laundering. Terrorism itself is a crime that is considered to violate human rights and human values both domestically and internationally. Therefore, the state must make efforts such as preventive efforts to eradicate it through tracing the networks that back up their funding.

³ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁴ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

Based on observations of the handling of terrorism cases in the country, it is known that terrorist groups have experienced many changes, both regarding modes, forms of threats, networks and goals and objectives of terror acts. Of these various pattern changes, the thing that is very obvious and worth worrying about is the paradigm shift from physical targets to people's mindset.

Every act of terrorism carried out in Indonesia basically requires support, both in the form of weapons (firearms, sharp weapons and explosives), housing, vehicles for mobilization, war facilities and provision of members' needs, all of which can be interpreted as funding based on the definition of funds in the Law. Law Number 9 of 2013 concerning Prevention and Eradication of Terrorism Financing Crimes. In criminal acts of terrorism, money or funds are intended as a means to carry out the action and not as a goal to be sought so that various methods will be used by the perpetrators to obtain funds legally, such as buying and selling credit, asking for donations, selling computer equipment, selling herbs, internet cafes or criminal acts such as robbery, fraud, even hacking online investment sites.

In the 20th century there was a massive change in the motivations underlying terrorism. Terrorism has become part and characteristic of political movements from extreme right or left groups in the country's ideological spectrum. Technological advances such as the birth of biological, chemical and nuclear weapons have become a new phase as well as new killing tools that provide freedom and convenience for terrorists to carry out their mobility.⁵

The mode of financing terrorism through foundations is dominant and has the potential for high risk because the source of the funds generally comes from legal activities, for example donations/contributions from the community from work. Apart from that, the mode of carrying cash through person to person between fellow members (couriers) both within and outside the country makes smuggling efforts and detecting

⁵ Sri Yunanto.2017. *Terorisme sebagai Ancaman Keamanan Non Tradisional Utama saat ini*. CV. Multi Inovasi Mandiri (MIM):Bekasi. halaman 6

the whereabouts of money for terrorist activities difficult for law enforcement because money can move from one place to another, one from one party to another (across national borders) without leaving a trace and it is difficult to determine which money is intended for terrorist activities and which is used in the above mode, donations are the easiest way to collect funds and at the same time it is difficult to trace the source of the funds because most donations received comes from many parties and can come from within the country (wide community) or from abroad (international institutions). Because it is easy to do, there is a high risk of funds donated to foundations being mixed with the proceeds of acts of terrorism or other criminal acts which will ultimately be used or diverted to carry out certain purposes. The most high-risk foundation funding is through domestic donations whose sources come from donations from the wider community through cash transactions, most of which are weak in terms of supervision by the donor and the purpose of using the funds.

2. Factors Involved In Raising Terrorism Funding Using Charity Boxes

Terrorism is a unique criminal act, because the motives and factors causing this criminal act are very different from the motives of other criminal acts. Terrorism can be carried out with various motivations, namely for religious reasons, ideological reasons, reasons to fight for independence, reasons to free oneself from injustice, and because of certain interests. Due to the complexity of the motives for committing terrorism, the political phenomenon of violence and the regulation of terrorism cannot be easily formulated so that acts of violence can be carried out by individuals or groups.⁶

Terrorism is not a matter of who the perpetrators, groups and networks are. However, more than that, terrorism is an action rooted in beliefs, doctrines and ideologies that can attack people's consciousness. The growth of terrorism depends on the land where it grows and develops. If it lives in arid land, it will be difficult for

⁶ Deny Guntara, *Tinjauan Kriminologi Terhadap Pelaku Tindak Pidana Terorisme Di Indonesia Dalam Perspektif Teori Differential Association*. Jurnal Justisi Hukum Issn 2528-2638 Vol 3, No. 1, September 2018 Diakses Senin 15 Januari Pukul 20.00 Wib

terrorism to find a place, whereas if it lives in fertile land it will quickly develop. According to Hendropriyono, this fertile field is a society that is polluted by extreme fundamentalism or religious radicalism.

There are other factors that motivate someone to join a terrorist network. This motivation is caused by several factors. First, domestic factors, namely domestic conditions such as poverty, injustice or feeling disappointed with the government. Second, international factors, namely the influence of the foreign environment which provides the impetus for the growth of religious sentiments such as global injustice, arrogant foreign policy, and modern imperialism of superpower countries. Third, cultural factors are closely related to shallow religious understanding and narrow and lexical (literal) interpretation of holy books. Radical attitudes and understanding and motivated by the various factors above often make someone choose to join terrorist acts and networks.

The roots of the problems of terrorism, both domestic and international, are very diverse and complex. Some of the factors that emerge can be ideological factors involving religion and extreme ethnonationalism. On the other hand, factors originating from socio-economic problems such as poverty and unemployment as a result of weak government and not being able to keep up with the flow of globalization are also additional factors in understanding the root of the problem of terrorism.

3. Criminal Responsibility of Perpetrators of Embezzling Terrorism Funding Through Charity Boxes According to Law Number 9 of 2013 concerning Prevention and Eradication of Criminal Acts of Terrorism Funding

The concept of criminal responsibility consists of fault, ability to be responsible and reasons for forgiveness which are one unit or inseparable from the concept of a criminal act. There is no separation between criminal acts and criminal responsibility/guilt. The judge will automatically declare that the defendant is proven guilty of committing a criminal offense if the act is prohibited and punishable by crime and in which there is proven guilt based on the facts revealed in the trial. The crime of money laundering and the crime of terrorism have a strong relationship. This can be

seen clearly as stated in Article 2 Paragraph (2) of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. This theoretical criminal act specifically has a main difference from predicate crime in the principle of double criminality for money laundering. It is suspected that the money or funds in this criminal act of terrorism will be directly or indirectly used in acts of terrorism which will later be subject to the crime of money laundering, even though this money or funds were not obtained from a criminal act.

Deliberation in criminal law is part of a mistake. The perpetrator's intention has a closer psychological relationship to an action (which is prohibited) than negligence (culpa). Furthermore, Sudarto differentiated between being unable to take responsibility for a part and lacking the ability to be responsible. Not being able to take responsibility for some (gedeeltelijke ontoerekening vatbaarheid) for example for people with kleptomania. Regarding criminal liability, the Draft Criminal Code is different from the formulation in the current Criminal Code. The Draft Criminal Code clearly formulates the principle of error in article 34 which reads 'there is no crime or action without error.

Although the principle departs from criminal liability based on fault, in certain cases the Draft Criminal Code also provides for the possibility of strict liability and vicarious liability as stated in articles 35 and 36 of the Draft Criminal Code.

C. Conclusion

a. Through religious or social foundations, this is dominant and has the potential for high risk because the source of funds generally comes from legal activities, for example community donations/contributions from work.

b. Through cash carried by couriers from person to person between fellow members (couriers) both within and outside the country, this method makes smuggling efforts and detecting the presence of money for terrorist activities difficult for law enforcement because money can move from one place to another place, one party to another (crossing national borders) without leaving a trace and it is difficult to

determine which money is intended for terrorist activities and which is open to the above method.

Through donations or open donations, this is the easiest way to collect funds and it is also difficult to trace the source of the funds because most of the donations received come from many parties and can come from within the country (wider community) or from abroad (international institutions).

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